

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): April 29, 2015

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Creekside Crossing, 2015-00262-MHK
(Isolated Wetland 1, 2, 4, 5, 8, 9, 12, 13, 14, 15)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Kenosha City: Pleasant Prairie
Center coordinates of site (lat/long in degree decimal format): Lat. 42.54223° N, Long. -87.88527° W.
Universal Transverse Mercator: 16

Name of nearest waterbody: unnamed tributary to Jerome Creek

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Region (07120004)

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
 Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date: February to April 2015
 Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.: N/A

2. Non-regulated waters/wetlands (check if applicable):¹

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: See Section IV(B) for details.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
 Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).

¹ Supporting documentation is presented in Section III.F.

- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:
- Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: -1 is 0.43-acre, W-2 is 0.12-acre, W-4 is 0.13-acre, W-5 is 0.38-acre, W-8 is 0.08- acre, W-9 is 0.03-acre, W-12 is 660 square feet, W-13 is 0.04-acre, W-14 0.11- acre, and W-15 0.23-acre in size acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **RA Smith National**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters’ study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **1:24K Quad WI-Pleasant Prairie**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Kenosha County, Wisconsin**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): **Wisconsin Wetland Inventory**
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **1990, 2000, 2005, 2010 Kenosha County GIS; Google Earth Imagery April 2013**
 or Other (Name & Date):
- Previous determination(s). File no. and date of response letter: **2003-02708-DJP dated June 24, 2003**
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): **Erosion Control and Grading Plans September 2003; Storm Sewer System Plan March 2005; Wisconsin DNR letter dated January 23, 2015**

B. ADDITIONAL COMMENTS TO SUPPORT JD: The review area contains eighteen aquatic resources. The unnamed tributary to Jerome Creek, W-3, W-6, W-7, W-10, W-11, Stormwater Pond 1, and Stormwater Pond 2 are discussed in separated JDs. W-1, W-2, W-4, W-5, W-8, W-9, W-12, W-13, W-14, and W-15 are the subject of this JD. These ten wetlands are hydrologically isolated and have no surface connection to any water of the United States.

*W-1, W-2, W-4, W-5, and W-8 are located in the northeast portion of the site. The 2003 wetland delineation indicates that the areas where these five wetlands are now located was upland prior to construction activities for the subdivision. W-1 is a 0.43-acre degraded fresh wet meadow dominated by Phragmites australis and reed canary grass with some gravel fill present throughout the soil profile. W-2 is 0.12 acre in size and is dominated by reed canary grass. W-4 (0.13 acre) and W-8 (0.08 acre) are degraded fresh wet meadows dominated by reed canary grass with a shrub layer comprising <10% total

cover. Some gravel and fill were identified in the soil profile. W-5 is a 0.38-acre farmed wetland with very little vegetative cover. These wetlands are depressional areas with no hydrologic (surface or shallow groundwater) connection to surrounding streams, ditches or other WOUS. These five wetlands are not identified in the Wisconsin Wetland Inventory.

*W-9, W-12, W-13, W-14, and W-15 are located in the southern portion of the site. The 2003 wetland delineation also indicates that the areas where these five wetlands were recently identified was upland prior to construction activities. W-9 (0.03 acre in size) is dominated by cattails and no field indicators for hydric soils were found. W-12 is a 660 square feet fresh wet meadow dominated by *Poa pratensis* which is mowed. W-13 is 0.04 acre in size and is dominated by Phragmites. W-14 (0.11 acre) is a degraded wet meadow dominated by reed canary grass with a 10% cover shrub layer. Small gravel fill was identified through the soil profile. Finally, W-15 is a 0.23-acre reed canary grass dominated wet meadow with a willow shrub layer (10% cover) and some black willow trees. These wetlands are depressional areas with no hydrologic (surface or shallow groundwater) connection to surrounding streams, ditches or other WOUS. These five wetlands are not identified in the Wisconsin Wetland Inventory.

In addition, all ten wetlands do not support a link to interstate or foreign commerce; are not known to be used by interstate or foreign travelers for recreation or other purposes; do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that W-1, W-2, W-4, W-5, W-8, W-9, W-12, W-13, W-14, W-15 are not regulated by the Corps under Section 404 of the Clean Water Act.